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Attorneys for Plaintiff  
 City and County of San Francisco

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

CITY AND COUNTY OF SAN FRANCISCO,  
 A California Municipal Corporation,

Plaintiff,

vs.

FACTORY MUTUAL INSURANCE  
 COMPANY, a Rhode Island Corporation,  
 BOMBARDIER TRANSPORTATION  
 (HOLDINGS) USA, INC., a Delaware  
 Corporation,

Defendants.

AND RELATED COUNTERCLAIMS

No. C 04-5307 PJH

**STIPULATION AND [PROPOSED]  
 ORDER OF DISMISSAL OF ENTIRE  
 ACTION WITH PREJUDICE**

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The parties hereto, Plaintiff and Counter-Defendant City and County of San Francisco (“CCSF”), Defendant and Counterclaimant Factory Mutual Insurance Company (“FMIC”) and Defendant and Counterclaimant Bombardier Transportation (Holdings) USA, Inc. (“Bombardier”), by and through their respective counsel, hereby stipulate as follows:

Whereas, CCSF instituted the present action and thereafter filed a Second Amended Complaint asserting claims against FMIC and Bombardier;

Whereas, Bombardier filed an amended answer and asserted cross and counter-claims against CCSF;

Whereas, FMIC filed an answer and Amended Counter-Claims against CCSF and Cross-Claims against Bombardier, which cross-claims were later dismissed by this Court;

Whereas, the parties hereto subsequently entered into a Settlement Agreement to fully and finally resolve the present action and all claims therein (collectively referred to as the “Action”);

NOW, THEREFORE, pursuant to the Settlement Agreement, the parties hereto hereby stipulate and agree to:

1. Entry of an Order of Dismissal of With Prejudice of this Action in its entirety, including all claims, cross-claims and counterclaims asserted by any party, with each party to bear its own fees and costs.

2. This Stipulation is for the purpose of settling the Action. Neither the existence, terms or act of entering into this Stipulation, nor any action taken hereunder, shall constitute, or be construed as, any admission of the validity of any claim, defense, or any fact alleged in the Action, or of any wrongdoing, fault, violation of law, or liability of any kind on the part of either Bombardier or the City.

3. This Court shall retain jurisdiction over the parties for the purpose of enforcement of the Settlement Agreement only,

6. Kris A. Cox, counsel for CCSF, hereby attests that he has on file all holograph signatures for any signatures indicated by a “conformed” signature (/s/) within this e-filed document.

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1 **SO STIPULATED:**

2 Dated: January 8, 2009

WULFSBERG REESE COLVIG & FIRSTMAN  
PROFESSIONAL CORPORATION

3 By: /S/

4 Kris A. Cox

Attorneys for Plaintiff, City and County of  
San Francisco

6  
7 Dated: January 8, 2009

CARLSON, CALLADINE &  
PETERSON, LLP

9 By: /S/

10 Joyce Wang

Attorneys for Defendant Factory Mutual  
Insurance Company

11  
12 Dated: January 8, 2009

SONNENSCHN NATH AND  
ROSENTHAL LLP

14 By: /S/

15 Gayle M. Athanacio

Attorneys for Defendant Bombardier  
Transportation (Holdings) USA, Inc.

17  
18 **IT IS SO ORDERED.**

19  
20 Dated: January <sup>9</sup>\_\_\_\_, 2009

